

### **REMARKS/ ARGUMENTS**

The non-final Office Action of September 1, 2011, has been reviewed and these remarks are responsive thereto. Claims 1, 3, 10-12, 19, 21, and 38 have been amended, claims 4, 13, 22, and 25-27 have been canceled without prejudice or disclaimer, and no new claims have been added. No new matter has been introduced. Claims 1-3, 10-12, 19-21, and 28-40 are pending in this application upon entry of the present amendment. Reconsideration and allowance of the instant application are respectfully requested.

#### ***Allowable Subject Matter***

Applicants acknowledge with appreciation the indication that the application contains allowable subject matter. Specifically, claims 29 and 34 were deemed allowable if rewritten in independent form to incorporate all the features of their respective base claims and any intervening claims. These claims have not been rewritten in independent form, however, for reasons explained in more detail below, Applicants believe that these claims remain allowable and that the additional pending claims are allowable as well.

#### ***Rejections under 35 U.S.C. § 101***

Claims 10-13 stand rejected under 35 U.S.C. § 101 as allegedly being directed to nonstatutory subject matter. (Office Action, pp. 2-3). Notwithstanding the merits of these rejections, in order to expedite allowance, Applicants have amended claims 10-12 and 38 to recite a one or more “non-transitory” computer-readable media, as suggested by the Examiner. Reconsideration and withdrawal of the rejections is respectfully requested.

#### ***Rejections Under 35 U.S.C. § 103***

Claims 1-4, 10-13, 19-22 and 25-27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,412,377 (Evans), in view of U.S. Patent Appl. Pub. No. 2001/0005905 (Saib), and further in view of U.S. Patent Appl. Publ. No. 2001/0007149 (Smith). Claims 28, 33, and 38-40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Saib, in view of U.S. Patent No. 7,181,027 (Shaffer). Claims 30 and 35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Saib, in view of Shaffer, and further in view of U.S.

Patent No. 6,507,306 (Griesau). Claims 31 and 36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Saib, in view of Shaffer, and further in view of U.S. Patent No. 5,844,620 (Coleman). Claims 32 and 37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Saib, in view of Shaffer, and further in view of U.S. Patent No. 6,757,906 (Look). Applicants respectfully traverse these rejections.

Independent Claims 1, 10, and 19

Amended claims 1, 10, and 19 each relate, *inter alia*:

comparing the depression duration of the channel selection number button to a predetermined time threshold;

when the depression duration of the channel selection number button is less than the predetermined time threshold, entering the number of the channel selection number button for a channel selection function; and

when the depression duration of the channel selection number button is greater than the predetermined time threshold, performing one of a plurality of functions on a favorite channels list, wherein the function performed comprises one of accessing, programming, updating, or clearing the item number in the favorite channels list corresponding to the channel selection number button, wherein the function performed is based upon the depression duration.

None of the cited references, alone or in combination, teach or suggest these features.

Evans describes a remote control device having multiple programmable keys which may perform a standard function, or which may be programmed by the user to perform a different function. (Evans, col. 3, line 57 to col. 4, line 11). However, at any one time, each of Evans' programmable buttons can only be used to perform a single function. (Id.). Therefore, as the Office correctly acknowledges, Evans does not teach or suggest performing a function "based on the depression duration of a key or button." (Office Action, p 4).

The Office relies on Saib and/or Smith as allegedly curing the deficiencies of Evans with respect to performing functions based on the depression duration of buttons. Saib describes a "Jump" button at FIG. 3, step 302, which causes the tuner to cycle through a loop of stations based on the depression duration of the button. (Saib, col. 5, lines 23-57). Smith describes a remote control device that may determine which button on the device has been pressed, determine the duration of the button press, and then transmit both the button pressed and the

duration to the set-top box. (Smith, para. [0026]). Although both Saib and Smith describe determining a button depression duration, neither reference teaches or suggests determining the depression duration of channel selection number button [0-9]. Moreover, neither Saib nor Smith teaches or suggests that when the number button is depressed for less than the predetermined time threshold, “entering the number ... for a channel selection function,” and when the number button is depressed for greater than the predetermined time threshold “performing one of a plurality of functions on a favorite channels list...,” as recited in amended claims 1, 10, and 19.

Therefore, in each of the cited references, a single button only may be used for selecting a channel or may be programmed for another purpose. None of the cited references, considered alone or in combination, allow a number button to be used for both a channel selection function and a function on a favorite channels list, depending on the depression duration of the number button. Accordingly, amended claims 1, 10, and 19 are not obvious over the cited references for at least these reasons.

Dependent claims 2, 3, 11, 12, 20, and 21 are not obvious for at least the same reasons as claims 1, 10, or 19, as well as based on the additional features recited therein.

#### Independent Claims 28, 33, and 38

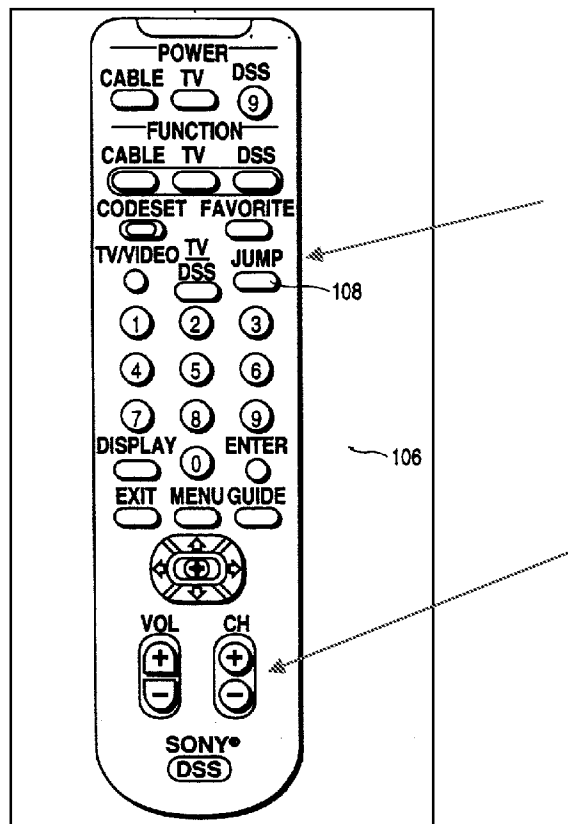
Claims 28, 33, and 38 each recite, *inter alia*, “classifying the depression duration into one of three or more ranges,” wherein each depression duration range is associated with a separate function on a multimedia presentation device controller (emphasis added). The Office correctly acknowledges on that Saib does not disclose a third depression range associated with a third function on a device controller. (Office Action, p. 6). However, the Office then alleges that Shaffer teaches three duration ranges associated with three functions at FIG. 4 and col. 8, lines 59-64. (Id.). However, the alleged duration ranges of Shaffer are not “depression duration” ranges as recited in claims 28, 33, and 38. Rather, Shaffer’s duration ranges relate to the amount of time that audio input is being detected at a microphone. (Shaffer, FIG. 4; col. 9, line 51 to col. 10, line 46). Moreover, none of the alleged functions performed by Shaffer is a “function on [a] multimedia presentation device controller,” as recited by claims 28, 33, and 38. In fact, Shaffer does not disclose or relate to multimedia device controllers at all, but describes a noise suppression technique for use in communication systems. (Shaffer, Abstract).

Furthermore, Shaffer does not perform a “third function” associated with a third depression duration range, as recited in claims 28, 33, and 38. As shown in FIG. 4 of Schaffer, regardless of the duration of the speech input at the microphone, a timer is initialized, a beginning notification is sent, and an ending notification is sent. Although multiple durations are described in relation to system performance, Shaffer does not teach or suggest performing a “third function” associated with a third duration range, as recited in claims 28, 33, and 38.

For at least these reasons, claims 28, 33, and 38 are not obvious over the purported combination of Saib and Shaffer. The addition of Coleman and/or Look also fails to cure the deficiencies of the above-cited references. Dependent claims 29-32, 34-37, and 39-40 are not obvious over the cited references for the same reasons as claims 28, 33, and 38, as well as based on the additional features recited therein.

#### Dependent Claims 30 and 35

Claims 30 and 35 depend respectively from independent claims 28 and 33, and further recite wherein the button for which the depression duration is evaluated, “corresponds to a channel up button or a channel down button.” The Office alleges that Saib teaches this feature by incorrectly characterizing Saib’s “Jump” button as a “channel up” or “channel down” button. (Office Action, p. 7). Specifically, the Office Action states that Saib’s Jump button is “equated to a channel up key function as the channel jumps to a next higher station number.” (Id.). To the contrary, Saib’s Jump button is not the same as or equivalent to “a channel up button or a channel down button,” as recited in claims 30 and 35. As shown in FIG. 1A of Saib, the Jump button is entirely different from the channel up and channel down keys on Saib’s remote control device 106.



(Saib, FIG. 1A)

Neither Saib, nor any of the other cited references, teaches or suggests evaluating a depression duration of “a channel up button or a channel down button,” or performing a function based on the depression duration of a channel up or channel down button. Accordingly, claims 30 and 35 are not obvious over the cited references for at least these additional reasons.

(Conclusion and signature block follow on next page)

**CONCLUSION**

Based on the foregoing, Applicants respectfully submit that the application is in condition for allowance and a Notice to that effect is earnestly solicited. Should the Examiner believe that anything further is desirable in order to place the application in even better form for allowance, the Examiner is respectfully urged to contact Applicants' undersigned representative at the below-listed number.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Dated this 3<sup>rd</sup> day of January, 2012

By: /Brian J. Brisnehan/  
Brian J. Brisnehan, Registration No. 60,462  
1100 13<sup>th</sup> St., N.W.  
Washington, D.C. 20005-4051  
Tel: (202) 824-3000  
Fax: (202) 824-3001